

REMARKS

This Amendment is being filed in response to the Final Office Action mailed on April 8, 2009 which has been reviewed and carefully considered. Reconsideration and allowance of the present application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 10-11 and 13-20 remain in this application, where claim 12 has been canceled without prejudice. Claims 10 and 19 are independent.

In the Final Office Action, claims 10 and 19 are rejected under 35 U.S.C. §112, first paragraph. This rejection is respectfully traversed. However, to advance prosecution, claims 10 and 19 have been amended for better clarity and conformance with the specification. It is respectfully submitted that this rejection of claims 10 and 19 has been overcome. Accordingly, withdrawal of this rejection is respectfully requested.

In the Final Office Action, claims 10 and 12-19 are rejected under 35 U.S.C. §102(e) over U.S. Patent Application Publication

No. 2006/0028734 (Kuiper). Claim 19 is rejected under 35 U.S.C. §102(e) over U.S. Patent Application Publication No. 2001/0017985 (Tsuboi). Further, claims 10 and 12-18 are rejected under 35 U.S.C. §103(a) over Tsuboi. It is respectfully submitted that claims 10-11 and 13-20 are patentable over Kuiper and Tsuboi for at least the following reasons.

Kuiper is directed to a zoom lens with a controllable lens group comprising a voltage-controlled electro-wetting device that contains at least two immiscible fluids that form a meniscus interface(s) therebetween. The curvature(s), and thus the lens power, of the meniscus interface(s) is changed by changing the voltage applied to electrodes. FIG 7 shows a zoom lens system 60 with several chambers that include immiscible fluids, with two solid lens elements 72, 74 at end of the lens system 60. Kuiper is not concerned with any relationship between the curvature of the solid lens element 72, 74 and curvature of the meniscus interface(s). Further, as clearly shown in FIG 7-8, the entrance window that contacts a fluid does not have a curvature which is the same curvature as the meniscus between the very same fluid and

another fluid.

Tsuboi is directed to an optical device with two liquids that do not mix with each other and are sealingly contained in a container 7. As shown in FIGs 7A-7B and 10A-10C, the entrance surface is on the left side, as clearly seen from the direction of the arrows in FIGs 7A-7B that enter the left side of the container 7. As clearly shown in FIGs 7A-7B and 10A-10C, the entrance surface does not have a curvature which is the same curvature as the meniscus between the two liquids 8, 9.

It is respectfully submitted that Kuiper does not disclose or suggest the present invention as recited in independent claim 10, and similarly recited in independent claim 19 which, amongst other patentable elements recites (illustrative emphasis provided):

the chamber comprising a first fluid and a second fluid in contact over a meniscus extending transverse the optical axis, the fluids being substantially immiscible; ...

wherein the entrance window comprises a surface which is in contact with the first fluid, said surface having a curvature; and

wherein the curvature of the surface has a same sign as a curvature of the meniscus when no voltage is applied.

An entrance window comprising a surface which in contact with

the first fluid, where the surface has a curvature with the same sign as the curvature of the meniscus between the very same first fluid that contacts the surface and the second fluid, when no voltage is applied, is nowhere disclosed or suggested in Kuiper. Rather, Kuiper discloses in FIG 7, as well as in FIG 8, for example, that the surface of the solid lens element 72 in contact with the fluid B has a curvature with the opposite sign as the curvature of the meniscus 63 between the very same fluid B and another fluid A.


It is true, as the Examiner noted on page 9 of the Final Office Action, that there are many menisci. However, independent claims 10 and 19 recite a specific meniscus, namely, between the fluid that contacts the surface of the entrance window and another fluid. In Kuiper and Tsuboi, the meniscus between the fluid that contacts the surface of the entrance window, namely meniscus 63, has a curvature which does not have the same sign as the curvature of the surface that contacts the fluid. It should be noted that meniscus 64 is NOT the meniscus between the fluid that contacts the surface of the entrance window and another fluid.

Accordingly, it is respectfully requested that independent claims 10 and 19 be allowed. In addition, it is respectfully submitted that claims 11, 13-18 and 20 should also be allowed at least based on their dependence from independent claims 10 and 19 as well as their individually patentable elements.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

By 
Dicran Halajian, Reg. 39,703
Attorney for Applicant(s)
May 27, 2009

THORNE & HALAJIAN, LLP
Applied Technology Center
111 West Main Street
Bay Shore, NY 11706
Tel: (631) 665-5139
Fax: (631) 665-5101